IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 13TH FEBRUARY 2007 / 24TH MAGHA 1928

W.P(C).No. 4025 of 2007(D)

PETITIONER:

M/S. RPG TRANSMISSION LTD.,
KARIYILAKULAM, EDAPALAYAM P.O., ARIYANKAVU,
KOLLAM DISTRICT, REPRESENTED BY ITS
SENIOR EXECUTIVE, S.SOMAN, S/O. SADASIVAN.

BY ADV. SRI.V.GIRI

RESPONDENTS:

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1. THE DEPUTY COMMISSIONER (APPEALS),
   COMMERCIAL TAX, KOLLAM.

2. THE COMMERCIAL TAX OFFICER (WC & LT),
   ALAPPUZHA.

3. THE DEPUTY GENERAL MANAGER (CS),
   POWER GRID CORPORATION OF INDIA LTD.,`SAUDAMINI',
   PLOT NO.2, SECTOR-29, GURGAON-122 001, HARYANA.

BY GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE ORDER OF ASSESSMENT DATED 31.1.2006 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT.

EXT.P2: COPY OF NOTICE DEMAND UNDER SECTION WAS ISSUED FOR THE ASSESSMENT YEAR 2001-02 BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P3: COPY OF THE NOTICE OF DEMAND ACCOMPANYING THE YEAR OF ASSESSMENT SEEKING RECOVERY OF PENALTY FROM THE PETITIONER.

EXT.P4: COPY OF THE APPEAL ALONG WITH THE GROUNDS OF APPEAL FILED BY THE PETITIONER AGAINST EXHIBIT P1 ORDER OF ASSESSMENT.

EXT.P5: COPY OF THE STAY PETITION FILED ALONG WITH EXT.P4 APPEAL.

EXT.P6: COPY OF APPLICATION FOR EARLY HEARING OF THE APPEAL FILED BY THE PETITIONER BEFORE THE APPELLATE AUTHORITY.

EXT.P7: COPY OF THE ORDER PASSED BY THE FIRST RESPONDENT APPELLATE AUTHORITY DATED 24.1.2007.

TRUE COPY

P.A.TO JUDGE

K.BALAKRISHNAN NAIR, J.

WP(C).No.4025 of 2007-D

Dated this the 13th day of February, 2007.

JUDGMENT

The petitioner challenges Ext.P7 interim order passed on the stay petition filed by it along with Ext.P4 appeal, assessing sales tax for the year 2001-2002. As per that order, the petitioner has been directed to pay 50% of the balance tax due, within 15 days and furnish security for the balance amount. According to the petitioner, the said order has been passed mechanically, without taking note of the merits of the case. It is contended that the assessment order has been passed without notice to the petitioner or its representative. The turnover has been estimated arbitrarily as Rs. 18.84 crores, whereas the actual turnover is only Rs.4.71 crores. The petitioner has also serious dispute regarding the denial of compounding facility for the afore-mentioned turnover. So, it submits, absolute stay should have been granted.

2. I heard the learned Government Pleader for the respondents also. The learned Government Pleader would point out that even assuming that all the contentions of the petitioner are true, still it will have to pay about Rs.50 lakhs atleast towards tax.

3. Ext.P7 is only an interim order. Ordinarily, this court will not

interfere with such orders. But, having regard to the facts of the case and also the submissions of the learned Government Pleader, it is ordered that if the petitioner pays 30 percent of the balance tax within 15 days from today and furnish security for the balance amount, recovery proceedings pursuant to Ext.P1 assessment order will remain in abeyance till the disposal of Ext.P4 appeal. The first respondent appellate authority shall endevour to dispose of the appeal as expeditiously as possible, preferably within three months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,
MS JUDGE.